



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2013-0818; A-1-FRL- 9916-17-Region-1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Decommissioning of Stage II Vapor Recovery Systems

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island Department of Environmental Management. This revision includes regulatory amendments that allow gasoline dispensing facilities (GDFs) to decommission their Stage II vapor recovery systems as of December 25, 2013, and a demonstration that such removal is consistent with the Clean Air Act and EPA guidance. This revision also includes regulatory amendments that strengthen Rhode Island's requirements for Stage I vapor recovery systems at GDFs. The intended effect of this action is to propose approval of Rhode Island's revised vapor recovery regulations.

DATES: Written comments must be received on or before **[Insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2013-0818 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: arnold.anne@epa.gov
3. Fax: (617) 918-0047.

4. Mail: "Docket Identification Number EPA-R01-OAR-2013-0818," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912.
5. Hand Delivery or Courier. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, (mail code OEP05-2), Boston, MA 02109 - 3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2013-0818. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your

comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency: Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square,

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Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1660, fax number (617) 918-0660, email garcia.ariel@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose.
- II. Summary of Rhode Island’s SIP Revision.
- III. EPA’s Evaluation of Rhode Island’s SIP Revision.
- IV. Proposed Action.
- V. Statutory and Executive Order Reviews.

I. Background and Purpose.

On December 13, 2013, the Rhode Island Department of Environmental Management submitted a revision to its State Implementation Plan (SIP). The SIP revision consists of Rhode Island’s revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, which has been revised to allow the decommissioning of Stage II vapor recovery systems and to strengthen Stage I vapor recovery requirements. The SIP submittal also includes a demonstration that removal of Stage II vapor recovery systems in Rhode Island is consistent with the Clean Air Act and EPA guidance.

Stage II and onboard refueling vapor recovery (ORVR) systems are two types of emission control systems that capture fuel vapors from vehicle gas tanks during refueling. Stage II vapor recovery systems are installed at gasoline dispensing facilities (GDFs) and capture the refueling fuel vapors at the gasoline pump. The system carries the vapors back to the underground storage tank at the GDF to prevent the vapors from escaping to the atmosphere. ORVR systems are carbon canisters installed directly on automobiles to capture the fuel vapors evacuated from the gasoline tank before they reach the nozzle. The fuel vapors captured in the carbon canisters are then combusted in the engine when the automobile is in operation.

Stage II vapor recovery systems and vehicle ORVR systems were initially both required by the 1990 Amendments to the Clean Air Act (CAA). Section 182(b)(3) of the CAA requires moderate and above ozone nonattainment areas to implement Stage II vapor recovery programs. Also, under CAA section 184(b)(2), states in the Ozone Transport Region (OTR) are required to implement Stage II or comparable measures. CAA section 202(a)(6) required EPA to promulgate regulations for ORVR for light-duty vehicles (passenger cars). EPA adopted these requirements in 1994, at which point moderate ozone nonattainment areas were no longer subject to the CAA section 182(b)(3) Stage II vapor recovery requirements. ORVR equipment has been phased in for new passenger vehicles beginning with model year 1998, and starting with model year 2001 for light-duty trucks and most heavy-duty gasoline powered vehicles. ORVR equipment has been installed on nearly all new gasoline-powered light-duty vehicles, light-duty trucks, and heavy-duty vehicles since 2006.

During the phase-in of ORVR controls, Stage II has provided volatile organic compound (VOC) reductions in ozone nonattainment areas and certain attainment areas of the OTR. Congress recognized that ORVR systems and Stage II vapor recovery systems would eventually become largely redundant technologies, and provided authority to EPA to allow states to remove Stage II

vapor recovery programs from their SIPs after EPA finds that ORVR is in “widespread use.” Effective May 16, 2012, the date the final rule was published in the **Federal Register** (see 77 FR 28772), EPA determined that ORVR systems are in widespread use nationwide for control of gasoline emissions during refueling of vehicles at GDFs. Currently, more than 75 percent of gasoline refueling nationwide occurs with ORVR-equipped vehicles, so Stage II vapor recovery programs have become largely redundant control systems and Stage II vapor recovery systems achieve an ever declining emissions benefit as more ORVR-equipped vehicles continue to enter the on-road motor vehicle fleet.¹ In its May 16, 2012 rulemaking, EPA also exercised its authority under CAA section 202(a)(6) to waive certain federal statutory requirements for Stage II vapor recovery systems at GDFs. This decision exempts all new ozone nonattainment areas classified serious or above from the requirement to adopt Stage II vapor recovery programs. Finally, EPA’s May 16, 2012 rulemaking also noted that any state currently implementing Stage II vapor recovery programs may submit SIP revisions that would allow for the phase-out of Stage II vapor recovery systems.

Stage I vapor recovery systems are systems that capture vapors displaced from storage tanks at GDFs during gasoline tank truck deliveries. When gasoline is delivered into an aboveground or underground storage tank, vapors that were taking up space in the storage tank are displaced by the gasoline entering the storage tank. The Stage I vapor recovery systems route these displaced vapors into the delivery truck’s tank. Some vapors are vented when the storage tank exceeds a specified pressure threshold, however the Stage I vapor recovery systems greatly reduce the possibility of these displaced vapors being released into the atmosphere.

¹ In areas where certain types of vacuum-assist Stage II vapor recovery systems are used, the differences in operational design characteristics between ORVR and some configurations of these Stage II vapor recovery systems result in the reduction of overall control system efficiency compared to what could have been achieved relative to the individual control efficiencies of either ORVR or stage II emissions from the vehicle fuel tank.

Stage I vapor recovery systems have been in place since the 1970s. EPA has issued the following guidance regarding Stage I systems: “Design Criteria for Stage I Vapor Control Systems – Gasoline Service Stations” (November 1975, EPA Online Publication 450R75102), which is regarded as the control techniques guideline (CTG) for the control of VOC emissions from this source category; and the EPA document “Model Volatile Organic Compound Rules for Reasonably Available Control Technology” (Staff Working Draft, June 1992) contains a model Stage I regulation.

In more recent years, the California Air Resources Board (CARB) has required Stage I vapor recovery systems capable of achieving vapor control efficiencies higher than those achieved by traditional systems. These systems are commonly referred to as Enhanced Vapor Recovery (EVR) systems.

II. Summary of Rhode Island’s SIP Revision.

Rhode Island adopted its Stage II Vapor Recovery Program in 1992 in order to satisfy the requirements of sections 182(b)(3) and 184(b)(2) of the CAA. The Rhode Island Stage II vapor recovery program requirements were codified in Rhode Island Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, and EPA approved the program into the Rhode Island SIP on December 17, 1993 (58 FR 65930). Rhode Island’s rule required gasoline dispensing facilities throughout the state to install Stage II vapor recovery systems.

On December 13, 2013, Rhode Island submitted a SIP revision consisting of its revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*. This SIP revision includes regulatory amendments that allow GDFs to decommission their Stage II vapor recovery systems as of December 25, 2013 and requires that all GDFs equipped with Stage II

vapor recovery systems that are not compatible with ORVR, decommission their Stage II vapor recovery systems by December 22, 2017.

A GDF equipped with a Stage II vapor recovery system that is not ORVR-compatible can apply for an exemption to the Stage II removal requirement if such GDF will install, by December 22, 2017, air pollution control systems to control tank excess vent emissions resulting from that incompatibility. These GDFs are then required to continue to operate and maintain their Stage II vapor recovery systems in accordance with Rhode Island's regulations, until the time when such Stage II vapor recovery system is ever decommissioned. Also, GDFs with ORVR-compatible Stage II vapor recovery systems may choose not to decommission as long as such systems continue to be operated and maintained in accordance with Rhode Island's regulations, until the time when such Stage II vapor recovery system is ever decommissioned.

In addition, the regulatory amendments in the SIP revision also include requirements for GDFs to upgrade their Stage I vapor recovery systems to CARB-certified Stage I EVR systems or a Stage I vapor recovery system composed of EVR system components (Stage I EVR component systems). As of December 25, 2013, the upgrade to Stage I EVR systems or a Stage I system composed of EVR components is required upon facility start-up for facilities beginning operation or installing a fuel storage tank. Also as of December 25, 2013, any component of a pre-existing Stage I vapor recovery system that is replaced, is required to be replaced with a CARB-certified Stage I EVR component. The Rhode Island regulation further requires that all Stage I systems be CARB-certified Stage I EVR systems or Stage I EVR component systems by December 25, 2020.

The December 13, 2013 SIP revision also includes a narrative demonstration supporting the discontinuation of the Rhode Island Stage II vapor recovery program. This demonstration

consists of an analysis that the Stage II vapor recovery controls provide only *de minimis* emission reductions due to the prevalence of ORVR-equipped vehicles.

III. EPA's Evaluation of Rhode Island's SIP Revision.

EPA has reviewed Rhode Island's revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, and accompanying SIP narrative and has concluded that Rhode Island's December 13, 2013 SIP revision is consistent with EPA's widespread use rule (77 FR 28772, May 16, 2012) and EPA's "Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures" (EPA-457/B-12-001; August 7, 2012), hereafter referred to as EPA's Guidance Document.

Rhode Island's December 13, 2013 SIP revision includes a CAA section 110(l) anti-back sliding demonstration based on equations in EPA's Guidance Document. According to these calculations, the potential loss of refueling emission reductions from removing Stage II vapor recovery systems in 2013 (the effective date of the regulation amendments) is 7.2 percent, thus meeting the 10 percent *de minimis* recommendation in EPA's Guidance Document.

In addition, Rhode Island's December 13, 2013 SIP revision also includes calculations illustrating that the overall emissions effect of removing the Stage II vapor recovery program would be an increase of 69 tons in 2013. EPA's 2011 National Emissions Inventory database, Version 1, illustrates that Rhode Island's statewide anthropogenic VOC emissions were about 22,248 tons (see www.epa.gov/ttn/chief/net/2011inventory.html), therefore the 69 annual tons of VOC emissions increase calculated by Rhode Island are only about 0.3 percent of the total anthropogenic VOC emissions in Rhode Island. Also, these foregone emissions reductions in the near term continue to diminish rapidly over time as ORVR phase-in continues. Therefore, EPA

believes that the resulting temporary increases in VOC emissions will not interfere with attainment or maintenance of the ozone NAAQS.

With respect to Stage I vapor recovery requirements, Rhode Island's revised Regulation No. 11 is more stringent than the previously approved version of the rule, thus meeting the CAA section 110(l) anti-back sliding requirements. As noted above, the revised rule requires upgrades to a CARB-certified EVR Stage I system or a Stage I system made up of EVR components by December 25, 2020, with an earlier December 25, 2013 compliance date in the case of a new facility or when system components are being replaced. CARB-certified Stage I EVR systems have been certified to achieve a 98 percent reduction in VOC emissions, as compared to 95 percent for pre-EVR Stage I systems.

IV. Proposed Action.

EPA is proposing to approve Rhode Island's December 13, 2013 SIP revision. Specifically, EPA is proposing to approve Rhode Island's revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, and incorporate it into the Rhode Island SIP. EPA is proposing to approve this SIP revision because it meets all applicable requirements of the Clean Air Act and EPA guidance, and it will not interfere with attainment or maintenance of the ozone NAAQS.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 et seq.

Dated: September 11, 2014.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

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